



FEDERAL ELECTION COMMISSION
Washington, DC 20463

DEC 13 2007

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Thomasenia P. Duncan
General Counsel

Ann Marie Terzaken
Associate General Counsel for Enforcement

BY: Sidney Rocks
Assistant General Counsel *SR*

Dawn M. Odrowaki *DMO*
Attorney

Ana Pelia-Wallace *APW*
Attorney

SUBJECT: MUR 5646 (Cohen for New Hampshire/Burton Cohen)

RE: Probable Cause Conciliation Agreements -- 24-Hour Tally

Attached are two proposed probable cause conciliation agreements that have been signed by counsel for Respondents Burton Cohen and Cohen for New Hampshire and John Buchalski, in his official capacity as treasurer, ("the Committee") respectively. Mr. Cohen's agreement would settle violations of 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d) resulting from Mr. Cohen's use of his state campaign funds to finance start-up expenses for his federal election. Attachment 1. The Committee's agreement would also settle violations of 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d), as well as violations of 2 U.S.C. §§ 434(b), 432(c), 432(h) and 439a(b), all arising from the conduct of the Committee's former campaign manager who, as *de facto* treasurer, misreported the Committee's receipts, disbursements and cash on hand; failed to maintain disbursement records; made disbursements in excess of \$100 by cash rather than check; and converted campaign funds to the personal use of Committee staff. Attachment 2.

The agreement with Mr. Cohen provides for payment of the full \$9,000 civil penalty approved by the Commission on November 14, 2007,

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10 The agreement with the Committee provides for payment of a \$10,000 civil penalty,
11 which will be paid by Mr. Cohen, and requires the Committee to disgorge \$23,860 if and when it
12 is financially able to do so.
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24 We, therefore,
25 recommend that the Commission accept the attached conciliation agreements with Mr. Cohen
26 and the Committee and close the file as to each of them.
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28 **RECOMMENDATIONS:**
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- 30 1. Accept the attached conciliation agreement with Burton Cohen and close the file as it
31 pertains to him.
32 2. Accept the attached conciliation agreement with Cohen for New Hampshire and John
33 Buchalski, in his official capacity as treasurer, and close the file as it pertains to them.
34 3. Approve the appropriate letters.
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36 **Attachments:**

- 37 1. Signed Conciliation Agreement with Burton Cohen
38 2. Signed Conciliation Agreement with Cohen for New Hampshire
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